

AMENDED IN ASSEMBLY JUNE 18, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1128

**Introduced by Senator Padilla
(Coauthor: Senator Rubio)**

February 21, 2012

An act to *amend Sections 26001, 26002, 26008, 26009, 26011, 26014, 26015, 26017, 26022, 26023, 26024, 26025, 26030, 26033, 26034, and 26035 of, to amend, repeal, and add Sections 26003, 26011, and 26011.8 of, to add Chapter 4 (commencing with Section 26050) to Division 16 of, to repeal Sections 26001.5, 26011.5, 26011.6, 26012, 26013, 26016, 26016.5, 26020, 26021, 26026, and 26027 of, and to repeal Division 16.2 (commencing with Section 26100) of, the Public Resources Code, and to amend, repeal, and add Section 6010.8 of the Revenue and Taxation Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1128, as amended, Padilla. Energy: alternative energy financing. *Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and requires the authority to establish programs to provide financial assistance to participating parties for projects related to alternative energy sources and advanced transportation projects. Existing law authorizes the authority to issue revenue bonds or other securities of up to \$1 billion in total outstanding*

debt as a financing mechanism for providing financial assistance to those projects.

This bill would revise and recast those provisions to, among other things, require the authority to establish programs providing financial assistance to projects for renewable energy generation facilities, combined heat and power systems, facilities designed for the production of renewable fuels, and energy efficiency devices and technologies. The bill would eliminate the \$1 billion limitation on the amount of outstanding indebtedness the authority may incur to provide the financial assistance.

Existing law authorizes the ~~California Alternative Energy and Advanced Transportation Financing Authority~~ authority, until January 1, 2021, to provide financial assistance in the form of a sales and use tax exclusion for a project to promote California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or the reduction in air and water pollution or energy consumption. Existing law requires the authority, ~~upon granting once the sales and use tax exemption~~ *exemptions* for projects ~~that exceeds~~ *exceed* \$100,000,000 for a given year, to provide the Legislature with a 20-day notice prior to granting additional sales and use tax ~~exclusion~~ *exemptions*. *The sales and use tax exemption applies to the transfer of title of tangible personal property constituting a project to the authority by a participating party, or a lease or transfer of title of tangible personal property constituting a project by the authority to a participating party.*

This bill would additionally authorize the authority, until July 1, 2016, to grant the above financial assistance to projects that promote the utilization of advanced manufacturing, as defined. The bill would require the authority, until July 1, 2016, to study the efficacy and cost benefit of the sales and use tax exemption for advanced manufacturing projects. The bill would require the authority, before January 1, 2017, to submit to the Legislature a report on the study. The bill would require the authority, before January 1, 2015, to submit to the Legislature an interim report on the efficacy of granting the sales and use tax exemption for a projects, and recommendations on changes that would increase the efficacy in creating jobs and whether the exemption should be expanded or narrowed. The bill would require the authority, until July 1, 2016, to work with the Legislative Analyst's Office to determine the most efficient and ~~cost-effective~~ *cost-effective* way for the state to create jobs in advanced manufacturing. The bill would require the authority, until January 1, 2021, to work with the University of California or the

California State University to perform a peer review of the net benefits test used to evaluate applicants applying for the sales and use tax exemption, as specified. The bill would instead prohibit the authority from granting, on an annual basis, a sales and use tax ~~exclusion exemption~~ for a project exceeding \$100,000,000. *The bill would, instead, apply the sales and use tax exemption to the lease or transfer of title of tangible property constituting a project to any participating party.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26001 of the Public Resources Code is
2 amended to read:

3 26001. The Legislature hereby finds and declares ~~all both~~ of
4 the following:

5 (a) It is essential that the state, in cooperation with the federal
6 government, use all practical and commercially feasible means to
7 promote the prompt and efficient development of energy sources
8 which are renewable or which more efficiently utilize and conserve
9 scarce energy resources.

10 (b) The promotion of *sustainable and renewable* energy sources
11 ~~which, implementation of measures that increase the efficiency of~~
12 ~~the use of energy, and advanced transportation technologies that~~
13 ~~reduce the degradation of the environment and which lessen the~~
14 ~~state's dependence of fossil fuels, and protect the health, welfare,~~
15 ~~and safety of the people of this state-is are~~ in the public interest
16 and ~~serves~~ serve a public purpose.

17 ~~(c) It is essential that the state, in cooperation with the federal~~
18 ~~government, use all practical and commercially feasible means to~~
19 ~~promote the development and commercialization of advanced~~
20 ~~transportation technologies to conserve energy, reduce air pollution,~~
21 ~~promote economic development and jobs, and protect the health,~~
22 ~~welfare, and safety of the people of the state.~~

23 SEC. 2. Section 26001.5 of the Public Resources Code is
24 repealed.

25 ~~26001.5.—(a) It is the intent of the Legislature, in enacting~~
26 ~~Senate Bill 1754 of the 2008–09 Regular Session, to only provide~~
27 ~~authority for the California Alternative Energy and Advanced~~
28 ~~Transportation Financing Authority to use bonds to finance power~~

1 purchase agreement arrangements, and not to alter or supersede
2 other provisions of law addressing criteria associated with energy
3 generation or advanced transportation technologies, such as
4 direct access, the use, size, or statewide caps, or the net-metering
5 or feed-in tariff provisions.

6 (b) ~~When the authority uses bonds to finance the power purchase~~
7 ~~agreements, the construction, alteration, demolition, installation,~~
8 ~~repair, and maintenance work on the projects financed by the~~
9 ~~arrangements are subject to Chapter 1 (commencing with Section~~
10 ~~1720) of Part 7 of Division 2 of the Labor Code and the authority~~
11 ~~shall incorporate reference to that provision in its agreements with~~
12 ~~participating parties.~~

13 *SEC. 3. Section 26002 of the Public Resources Code is*
14 *amended to read:*

15 26002. (a) ~~It is the purpose of this division to carry out and~~
16 ~~make effective the findings of the Legislature pursuant to Sections~~
17 ~~25004, 25004.2, 25004.3, 25007, and 26001, advance the state's~~
18 ~~goals of reducing the levels of greenhouse gas emissions,~~
19 ~~increasing the deployment of sustainable and renewable energy~~
20 ~~sources, implementing measures that increase the efficiency of the~~
21 ~~use of energy, creating high quality employment opportunities,~~
22 ~~and lessening the state's dependence on fossil fuels and to that end~~
23 ~~to provide industry within this state with an alternative method of~~
24 ~~financing in providing and promoting the establishment of both~~
25 ~~of the following:~~

26 (1)
27 (a) Facilities utilizing alternative methods and sources of energy.
28 (2)
29 (b) Facilities needed for the development and commercialization
30 of advanced transportation technologies.

31 (b) ~~The Legislature hereby finds and declares that the facilities~~
32 ~~specified in subdivision (a) are necessary to meet the energy and~~
33 ~~transportation needs of this state and to guarantee the health and~~
34 ~~welfare of the citizens of this state.~~

35 **SECTION 1.**

36 *SEC. 4. Section 26003 of the Public Resources Code is*
37 *amended to read:*

38 26003. (a) As used in this division, unless the context
39 otherwise requires:

1 (1) (A) “Advanced manufacturing” means manufacturing that
2 improves existing, or creates entirely new, materials, products,
3 and processes through the use of science, engineering, or
4 information technologies, high-precision tools and methods, a
5 high-performance workforce, and innovative business or
6 organizational models in any of the following technology areas:

7 (i) Micro- and nanoelectronics, including semiconductors.

8 (ii) Advanced materials.

9 (iii) Integrated computational materials engineering.

10 (iv) Nanotechnology.

11 (v) Additive manufacturing.

12 (vi) Industrial biotechnology.

13 (B) “Advanced manufacturing” includes all of the following:

14 (i) A production system capable of furnishing a mix of products
15 in small or large volumes, with both the efficiency of mass
16 production and the flexibility of custom manufacturing, to respond
17 rapidly to customer demand and desired quality.

18 (ii) Systems that result from substantive advancement, whether
19 incremental or breakthrough, over the current state of the art, in
20 the production of materials and products. These advancements
21 include improvements in manufacturing processes and systems
22 that are often referred to as “smart” or “intelligent” manufacturing
23 systems, which integrate computational predictability and
24 operational efficiency.

25 (iii) Systems that produce goods that minimize the use of
26 resources while maintaining or improving cost and performance.

27 (iv) (I) Systems and technologies that are sustainable.

28 (II) Sustainable systems and technologies do not include those
29 required to be undertaken pursuant to state or federal law or
30 regulations, air district rules or regulations, memoranda of
31 understanding with a governmental entity, or legally binding
32 agreements or documents. The State Air Resources Board shall
33 advise the authority to ensure that the requirements of this
34 subclause are met.

35 (2) (A) “Advanced transportation technologies” means emerging
36 commercially competitive transportation-related technologies
37 identified by the authority as capable of creating long-term,
38 high-value added jobs for Californians while enhancing the state’s
39 commitment to energy conservation, pollution *and greenhouse*
40 *gas emissions* reduction, and transportation efficiency. ~~Those~~

1 technologies may include, but are not limited to, any of the
2 following:

- 3 (A) Intelligent vehicle highway systems.
- 4 (B) Advanced telecommunications for transportation.
- 5 (C) Command, control, and communications for public transit
- 6 vehicles and systems.
- 7 (D) Electric vehicles and ultralow-emission vehicles.
- 8 (E) High-speed rail and magnetic levitation passenger systems.
- 9 (F) Fuel cells.

10 (B) “Advanced transportation technologies” does not include
11 those required to be undertaken pursuant to state or federal law
12 or regulations, air district rules or regulations, memoranda of
13 understanding with a governmental entity, or legally binding
14 agreements or documents.

15 (C) The State Air Resources Board shall advise the authority
16 to ensure that the requirements of this paragraph are met.

17 (3) (A) “Alternative sources” means ~~the application of~~
18 ~~co-generation technology, as defined in Section 25134; the~~
19 ~~conservation of energy; or the use of solar, biomass, wind,~~
20 ~~geothermal, hydroelectricity under 30 megawatts, or any other~~
21 ~~source of energy, the efficient use of which will reduce the use of~~
22 ~~fossil and nuclear fuels devices or technologies used for a~~
23 ~~renewable electrical generation facility, as defined in paragraph~~
24 ~~(1) of subdivision (a) of Section 25741, a combined heat and power~~
25 ~~system, as defined in Section 2840.2 of the Public Utilities Code,~~
26 ~~or a facility designed for the production of renewable fuels, the~~
27 ~~efficient use of which reduce the use of fossil or nuclear fuels, and~~
28 ~~energy efficiency devices or technologies that reduce the need for~~
29 ~~new electric generation and reduce emissions of toxic and criteria~~
30 ~~pollutants and greenhouse gases.~~

31 (B) “Alternative sources” does not include a hydroelectric
32 facility that does not meet state laws pertaining to the control,
33 appropriation, use, and distribution of water, including, but not
34 limited to, the obtaining of applicable licenses and permits.

35 (4) “Authority” means the California Alternative Energy and
36 Advanced Transportation Financing Authority established pursuant
37 to Section 26004, and any board, commission, department, or
38 officer succeeding to the functions of the authority, or to which
39 the powers conferred upon the authority by this division shall be
40 given.

(5) “Cost” as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; the cost of the purchase or sale of energy derived from an alternative source pursuant to paragraph (7) of subdivision (a) of Section 26011; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of a project.

(6) “Financial assistance” includes, but is not limited to, ~~either, or any combination, of the following:~~ *loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity facilities, contributions of money, or a combination thereof, as determined by, and approved by the resolution of, the board.*

~~(A) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.~~

~~(B) Any other type of assistance the authority determines is appropriate.~~

(7) (A) “Participating party” means ~~either of the following:~~ *a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the business or operations in the state,*

1 *whether organized for profit or not for profit, that applies for*
2 *financial assistance from the authority for the purpose of*
3 *implementing a project.*

4 ~~(A) A person, or an entity or group of entities engaged in~~
5 ~~business or operations in the state, whether organized for profit or~~
6 ~~not for profit, that does either of the following:~~

7 ~~(i) Applies for financial assistance from the authority for the~~
8 ~~purpose of implementing a project in a manner prescribed by the~~
9 ~~authority.~~

10 ~~(ii) Participates in the purchase or sale of energy derived from~~
11 ~~an alternative source pursuant to paragraph (7) of subdivision (a)~~
12 ~~of Section 26011.~~

13 ~~(B) A public agency or nonprofit corporation that does either~~
14 ~~of the following:~~

15 ~~(i) Applies for financial assistance from the authority for the~~
16 ~~purpose of implementing a project in a manner prescribed by the~~
17 ~~authority.~~

18 ~~(ii) Participates in the purchase or sale of energy derived from~~
19 ~~an alternative source pursuant to paragraph (7) of subdivision (a)~~
20 ~~of Section 26011.~~

21 *(B) For the purposes of Section 6010.8 of the Revenue and*
22 *Taxation Code, “participating party” means an entity specified*
23 *in paragraph (1) that seeks financial assistance pursuant to Section*
24 *26011.8.*

25 (8) (A) “Project” means a land, building, improvement to the
26 land or building, rehabilitation, work, property, or structure, real
27 or personal, stationary or mobile, including, but not limited to,
28 machinery and equipment, whether or not in existence or under
29 construction, that utilizes, or is designed to utilize, an alternative
30 source, or that is utilized for the design, technology transfer,
31 manufacture, production, assembly, distribution, or service of
32 advanced transportation technologies, alternative source
33 components, or an arrangement for the purchase, including
34 prepayment, or sale of energy derived from an alternative source
35 pursuant to paragraph (7) of subdivision (a) of Section 26011.

36 (B) “Project,” for the purposes of Section 26011.8 *and Section*
37 *6010.8 of the Revenue and Taxation Code*, means any tangible
38 personal property that is utilized for the design, manufacture,
39 production, or assembly of advanced manufacturing, advanced

1 transportation technologies, or alternative source products,
2 components, or systems.

3 (9) ~~“Public agency” means a federal or state agency, department,~~
4 ~~board, authority, state or community college, university, or~~
5 ~~commission, or a county, city and county, city, regional agency,~~
6 ~~public district, school district, or other political entity.~~

7 (10) (A) ~~“Renewable energy” means a device or technology~~
8 ~~that conserves or produces heat, processes heat, space heating,~~
9 ~~water heating, steam, space cooling, refrigeration, mechanical~~
10 ~~energy, electricity, or energy in any form convertible to these uses,~~
11 ~~that does not expend or use conventional energy fuels, and that~~
12 ~~uses any of the following electrical generation technologies:~~

13 ~~(i) Biomass.~~

14 ~~(ii) Solar thermal.~~

15 ~~(iii) Photovoltaic.~~

16 ~~(iv) Wind.~~

17 ~~(v) Geothermal.~~

18 (B) ~~For purposes of this subdivision, “conventional energy fuel”~~
19 ~~means any fuel derived from petroleum deposits, including, but~~
20 ~~not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,~~
21 ~~including liquefied natural gas, or nuclear fissionable materials.~~

22 (C) ~~Notwithstanding subparagraph (A), for the purposes of this~~
23 ~~section, “renewable energy” also means ultralow-emission~~
24 ~~equipment for energy generation based on thermal energy systems~~
25 ~~such as natural gas turbines; landfill gas turbines, engines, and~~
26 ~~microturbines; digester gas turbines, engines, and microturbines;~~
27 ~~and fuel cells.~~

28 ~~(11)–~~

29 (9) “Revenue” means all rents, receipts, purchase payments,
30 loan repayments, and all other income or receipts derived by the
31 authority from a project, or the sale, lease, or other disposition of
32 alternative source or advanced transportation technology facilities,
33 or the making of loans to finance alternative source or advanced
34 transportation technology facilities, and any income or revenue
35 derived from the investment of money in any fund or account of
36 the authority.

37 (b) This section shall become inoperative on July 1, 2016, and,
38 as of January 1, 2017, is repealed, unless a later enacted statute,
39 that becomes operative on or before January 1, 2017, deletes or
40 extends the dates on which it becomes inoperative and is repealed.

1 ~~SEC. 2.~~

2 ~~SEC. 5.~~ Section 26003 is added to the Public Resources Code,
3 to read:

4 26003. (a) As used in this division, unless the context
5 otherwise requires:

6 (1) (A) “Advanced transportation technologies” means
7 emerging commercially competitive transportation-related
8 technologies identified by the authority as capable of creating
9 long-term, high-value added jobs for Californians while enhancing
10 the state’s commitment to energy conservation, pollution *and*
11 *greenhouse gas emissions* reduction, and transportation efficiency.
12 ~~Those technologies may include, but are not limited to, any of the~~
13 ~~following:~~

14 ~~(A) Intelligent vehicle highway systems.~~

15 ~~(B) Advanced telecommunications for transportation.~~

16 ~~(C) Command, control, and communications for public transit~~
17 ~~vehicles and systems.~~

18 ~~(D) Electric vehicles and ultralow-emission vehicles.~~

19 ~~(E) High-speed rail and magnetic levitation passenger systems.~~

20 ~~(F) Fuel cells.~~

21 (B) “Advanced transportation technologies” *does not include*
22 *those required to be undertaken pursuant to state or federal law*
23 *or regulations, air district rules or regulations, memoranda of*
24 *understanding with a governmental entity, or legally binding*
25 *agreements or documents.*

26 (C) *The State Air Resources Board shall advise the authority*
27 *to ensure that the requirements of this paragraph are met.*

28 (2) (A) “Alternative sources” means ~~the application of~~
29 ~~cogeneration technology, as defined in Section 25134; the~~
30 ~~conservation of energy; or the use of solar, biomass, wind,~~
31 ~~geothermal, hydroelectricity under 30 megawatts, or any other~~
32 ~~source of energy, the efficient use of which will reduce the use of~~
33 ~~fossil and nuclear fuels devices or technologies used for a~~
34 ~~renewable electrical generation facility, as defined in paragraph~~
35 ~~(1) of subdivision (a) of Section 25741, a combined heat and power~~
36 ~~system, as defined in Section 2840.2 of the Public Utilities Code,~~
37 ~~or a facility designed for the production of renewable fuels, the~~
38 ~~efficient use of which reduce the use of fossil or nuclear fuels, and~~
39 ~~energy efficiency devices or technologies that reduce the need for~~

1 *new electric generation and reduce emissions of toxic and criteria*
2 *pollutants and greenhouse gases.*

3 (B) “Alternative sources” does not include a hydroelectric
4 facility that does not meet state laws pertaining to the control,
5 appropriation, use, and distribution of water, including, but not
6 limited to, the obtaining of applicable licenses and permits.

7 (3) “Authority” means the California Alternative Energy and
8 Advanced Transportation Financing Authority established pursuant
9 to Section 26004, and any board, commission, department, or
10 officer succeeding to the functions of the authority, or to which
11 the powers conferred upon the authority by this division shall be
12 given.

13 (4) “Cost” as applied to a project or portion of the project
14 financed under this division means all or part of the cost of
15 construction and acquisition of all lands, structures, real or personal
16 property or an interest in the real or personal property, rights,
17 rights-of-way, franchises, easements, and interests acquired or
18 used for a project; the cost of demolishing or removing any
19 buildings or structures on land so acquired, including the cost of
20 acquiring any lands to which those buildings or structures may be
21 moved; the cost of all machinery, equipment, and furnishings,
22 financing charges, interest prior to, during, and for a period after,
23 completion of construction as determined by the authority; the cost
24 of the purchase or sale of energy derived from an alternative source
25 pursuant to paragraph (7) of subdivision (a) of Section 26011;
26 provisions for working capital; reserves for principal and interest
27 and for extensions, enlargements, additions, replacements,
28 renovations, and improvements; the cost of architectural,
29 engineering, financial, accounting, auditing and legal services,
30 plans, specifications, estimates, administrative expenses, and other
31 expenses necessary or incident to determining the feasibility of
32 constructing any project or incident to the construction, acquisition,
33 or financing of a project.

34 (5) “Financial assistance” includes, but is not limited to, ~~either,~~
35 ~~or any combination, of the following:~~ *loans, loan loss reserves,*
36 *interest rate reductions, proceeds of bonds issued by the authority,*
37 *bond insurance, loan guarantees or other credit enhancements or*
38 *liquidity facilities, contributions of money, or a combination*
39 *thereof, as determined by, and approved by the resolution of, the*
40 *board.*

1 ~~(A) Loans, loan loss reserves, interest rate reductions, proceeds~~
2 ~~of bonds issued by the authority, insurance, guarantees or other~~
3 ~~credit enhancements or liquidity facilities, contributions of money,~~
4 ~~property, labor, or other items of value, or any combination thereof,~~
5 ~~as determined by, and approved by the resolution of, the board.~~

6 ~~(B) Any other type of assistance the authority determines is~~
7 ~~appropriate.~~

8 ~~(6) (A) “Participating party” means either of the following: a~~
9 ~~person, federal or state agency, department, board, authority, or~~
10 ~~commission, state or community college, or university, or a city~~
11 ~~or county, regional agency, public district, school district, or other~~
12 ~~political entity engaged in the business or operations in the state,~~
13 ~~whether organized for profit or not for profit, that applies for~~
14 ~~financial assistance from the authority for the purpose of~~
15 ~~implementing a project.~~

16 ~~(A) A person, or an entity or group of entities engaged in~~
17 ~~business or operations in the state, whether organized for profit or~~
18 ~~not for profit, that does either of the following:~~

19 ~~(i) Applies for financial assistance from the authority for the~~
20 ~~purpose of implementing a project in a manner prescribed by the~~
21 ~~authority.~~

22 ~~(ii) Participates in the purchase or sale of energy derived from~~
23 ~~an alternative source pursuant to paragraph (7) of subdivision (a)~~
24 ~~of Section 26011.~~

25 ~~(B) A public agency or nonprofit corporation that does either~~
26 ~~of the following:~~

27 ~~(i) Applies for financial assistance from the authority for the~~
28 ~~purpose of implementing a project in a manner prescribed by the~~
29 ~~authority.~~

30 ~~(ii) Participates in the purchase or sale of energy derived from~~
31 ~~an alternative source pursuant to paragraph (7) of subdivision (a)~~
32 ~~of Section 26011.~~

33 ~~(B) For the purposes of Section 6010.8 of the Revenue and~~
34 ~~Taxation Code, “participating party” means an entity specified~~
35 ~~in paragraph (1) that seeks financial assistance pursuant to Section~~
36 ~~26011.8.~~

37 ~~(7) (A) “Project” means a land, building, improvement to the~~
38 ~~land or building, rehabilitation, work, property, or structure, real~~
39 ~~or personal, stationary or mobile, including, but not limited to,~~
40 ~~machinery and equipment, whether or not in existence or under~~

1 construction, that utilizes, or is designed to utilize, an alternative
2 source, or that is utilized for the design, technology transfer,
3 manufacture, production, assembly, distribution, or service of
4 advanced transportation technologies, alternative source
5 components, or an arrangement for the purchase, including
6 prepayment, or sale of energy derived from an alternative source
7 pursuant to paragraph (7) of subdivision (a) of Section 26011.

8 (B) “Project,” for the purposes of Section 26011.8 *of this and*
9 *Section 6010.8 of the Revenue and Taxation Code*, means any
10 tangible personal property that is utilized for the design,
11 manufacture, production, or assembly of advanced transportation
12 technologies or alternative source products, components, or
13 systems.

14 ~~(8) “Public agency” means a federal or state agency, department,~~
15 ~~board, authority, state or community college, university, or~~
16 ~~commission, or a county, city and county, city, regional agency,~~
17 ~~public district, school district, or other political entity.~~

18 ~~(9) (A) “Renewable energy” means a device or technology that~~
19 ~~conserves or produces heat, processes heat, space heating, water~~
20 ~~heating, steam, space cooling, refrigeration, mechanical energy,~~
21 ~~electricity, or energy in any form convertible to these uses, that~~
22 ~~does not expend or use conventional energy fuels, and that uses~~
23 ~~any of the following electrical generation technologies:~~

24 ~~(i) Biomass.~~

25 ~~(ii) Solar thermal.~~

26 ~~(iii) Photovoltaic.~~

27 ~~(iv) Wind.~~

28 ~~(v) Geothermal.~~

29 ~~(B) For purposes of this subdivision, “conventional energy fuel”~~
30 ~~means any fuel derived from petroleum deposits, including, but~~
31 ~~not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,~~
32 ~~including liquefied natural gas, or nuclear fissionable materials.~~

33 ~~(C) Notwithstanding subparagraph (A), for the purposes of this~~
34 ~~section, “renewable energy” also means ultralow-emission~~
35 ~~equipment for energy generation based on thermal energy systems~~
36 ~~such as natural gas turbines; landfill gas turbines, engines, and~~
37 ~~microturbines; digester gas turbines, engines, and microturbines;~~
38 ~~and fuel cells.~~

39 ~~(10)–~~

(8) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

(b) This section shall become operative on July 1, 2016.

SEC. 6. Section 26008 of the Public Resources Code is amended to read:

26008. The authority may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The executive director shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority. The authority may, by resolution, delegate to ~~one or more of its members~~, its executive director, or any other ~~official or~~ employee of the authority, *or the Treasurer’s designee* any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

SEC. 7. Section 26009 of the Public Resources Code is amended to read:

26009. ~~(a) The authority shall, in accordance with Chapter~~ *may adopt, amend, or repeal all rules and regulations necessary to carry out this division as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out this division Code). The adoption, amendment, or repeal of the regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.*

~~(b) The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively promote the development and utilization of alternative energy sources and the development and commercialization of advanced transportation technologies.~~

1 ~~SEC. 3.~~

2 *SEC. 8.* Section 26011 of the Public Resources Code is
3 amended to read:

4 26011. ~~(a)~~—The authority is authorized and empowered:

5 ~~(1)~~—

6 (a) To adopt an official seal.

7 ~~(2)~~—

8 (b) To sue and be sued in its own name.

9 ~~(3)~~—

10 (c) To issue bonds, notes, bond anticipation notes, and other
11 obligations of the authority, including, at the option of the
12 authority, obligations bearing interest that is taxable for purposes
13 of federal income taxation, for any of its purposes and to fund or
14 refund the same, all as provided in this division.

15 ~~(4)~~—

16 (d) To determine the location and character of a project to be
17 financed under the provisions of this division, to ~~lend~~ *provide*
18 financial assistance to a participating party, to enter into loan
19 agreements with a participating party for the financing of a project
20 including creating a lien or security interest in the property, to
21 construct, reconstruct, renovate, replace, lease, as lessor or lessee,
22 and regulate the same, and to enter into contracts for the sale of a
23 project, including installment sales or sales under conditional sales
24 contracts.

25 ~~(5)~~—

26 (e) To fix fees and charges for projects, and interest rates with
27 respect to loans for projects *or for loan of moneys to finance*
28 *projects*, and to revise from time to time the fees and charges and
29 interest rates, and to collect rates, rents, fees, *loan repayments*,
30 and charges for the use of, and for a facility or service furnished,
31 or to be furnished, by a project or part of the project and to contract
32 with a person, partnership, association, corporation, or public
33 agency with respect to the project, and to fix the terms and
34 conditions upon which a project may be sold or disposed of,
35 whether upon installment sales contracts or otherwise.

36 ~~(6)~~—

37 (f) To employ and fix the compensation of bond counsel,
38 financial consultants, and advisers as may be necessary in its
39 judgment in connection with the issuance and sale of any bonds,
40 notes, bond anticipation notes, or other obligations of the authority;

1 to contract for engineering, architectural, accounting, or other
2 services of appropriate state agencies as may be necessary in the
3 judgment of the authority for the successful development of a
4 project; and to pay the reasonable costs of consulting engineers,
5 architects, accountants, and construction experts employed by a
6 participating party if, in the judgment of the authority, the services
7 are necessary to the successful development of a project, and the
8 services are not obtainable from a state agency to advance the
9 purposes of this division.

10 ~~(7) To purchase alternative source energy or projects from a~~
11 ~~person or entity for sale to a participating party, or to make a loan~~
12 ~~to a participating party to purchase alternative source energy or~~
13 ~~projects, or to purchase from a person or entity that has contracted~~
14 ~~to sell alternative source energy to a participating party the right~~
15 ~~to receive purchase payments and related rights under that contract~~
16 ~~or any related contracts. Notwithstanding any other applicable law,~~
17 ~~the authority and a public agency, for purposes of a program or~~
18 ~~financing, shall have the power to enter into contractual~~
19 ~~arrangements and related agreements or instruments, including,~~
20 ~~without limitation, a prepayment purchase contract, lease, loan,~~
21 ~~construction, security, operation and maintenance, or other~~
22 ~~agreement or instrument, with the authority or with a participating~~
23 ~~party, upon the terms and subject to the conditions that may be~~
24 ~~necessary or convenient to accomplish the purposes of this~~
25 ~~subdivision. The authority shall only enter into a prepayment~~
26 ~~contract with a participating party for energy derived from an~~
27 ~~alternative source to the extent the prepayment is for energy~~
28 ~~intended to primarily offset part or all of the authority's or a~~
29 ~~participating party's own electrical requirements.~~

30 ~~(8)–~~

31 (g) To purchase, with proceeds of its bonds or its revenue, bonds
32 issued by a public agency described in clause (ii) of subparagraph
33 (B) of paragraph (7) of subdivision (a) of Section 26003 at a public
34 or negotiated sale. Bonds purchased pursuant to this subdivision
35 may be held by the authority or sold to public or private purchasers
36 at public or negotiated sales, in whole or in part, separately or
37 together with other bonds issued by the authority.

38 ~~(9)–~~

39 (h) To do all things generally necessary or convenient to carry
40 out the purposes of this division.

1 ~~(b) This section shall become inoperative on July 1, 2016, and,~~
2 ~~as of January 1, 2017, is repealed, unless a later enacted statute,~~
3 ~~that becomes operative on or before January 1, 2017, deletes or~~
4 ~~extends the dates on which it becomes inoperative and is repealed.~~

5 SEC. 4. ~~Section 26011 is added to the Public Resources Code,~~
6 ~~to read:~~

7 ~~26011. (a) The authority is authorized and empowered:~~

8 ~~(1) To adopt an official seal.~~

9 ~~(2) To sue and be sued in its own name.~~

10 ~~(3) To issue bonds, notes, bond anticipation notes, and other~~
11 ~~obligations of the authority, including, at the option of the~~
12 ~~authority, obligations bearing interest that is taxable for purposes~~
13 ~~of federal income taxation, for any of its purposes and to fund or~~
14 ~~refund the same, all as provided in this division.~~

15 ~~(4) To determine the location and character of a project to be~~
16 ~~financed under the provisions of this division, to lend financial~~
17 ~~assistance to a participating party, to enter into loan agreements~~
18 ~~with a participating party for the financing of a project including~~
19 ~~creating a lien or security interest in the property, to construct,~~
20 ~~reconstruct, renovate, replace, lease, as lessor or lessee, and~~
21 ~~regulate the same, and to enter into contracts for the sale of a~~
22 ~~project, including installment sales or sales under conditional sales~~
23 ~~contracts.~~

24 ~~(5) To fix fees and charges for projects, and interest rates with~~
25 ~~respect to loans for projects, and to revise from time to time the~~
26 ~~fees and charges and interest rates, and to collect rates, rents, fees,~~
27 ~~and charges for the use of, and for a facility or service furnished,~~
28 ~~or to be furnished, by a project or part of the project and to contract~~
29 ~~with a person, partnership, association, corporation, or public~~
30 ~~agency with respect to the project, and to fix the terms and~~
31 ~~conditions upon which a project may be sold or disposed of,~~
32 ~~whether upon installment sales contracts or otherwise.~~

33 ~~(6) To employ and fix the compensation of bond counsel,~~
34 ~~financial consultants, and advisers as may be necessary in its~~
35 ~~judgment in connection with the issuance and sale of any bonds,~~
36 ~~notes, bond anticipation notes, or other obligations of the authority;~~
37 ~~to contract for engineering, architectural, accounting, or other~~
38 ~~services of appropriate state agencies as may be necessary in the~~
39 ~~judgment of the authority for the successful development of a~~
40 ~~project; and to pay the reasonable costs of consulting engineers,~~

1 architects, accountants, and construction experts employed by a
2 participating party if, in the judgment of the authority, the services
3 are necessary to the successful development of a project, and the
4 services are not obtainable from a state agency.

5 (7) To purchase alternative source energy or projects from a
6 person or entity for sale to a participating party, or to make a loan
7 to a participating party to purchase alternative source energy or
8 projects, or to purchase from a person or entity that has contracted
9 to sell alternative source energy to a participating party the right
10 to receive purchase payments and related rights under that contract
11 or any related contracts. Notwithstanding any other applicable law,
12 the authority and a public agency, for purposes of a program or
13 financing, shall have the power to enter into contractual
14 arrangements and related agreements or instruments, including,
15 without limitation, a prepayment purchase contract, lease, loan,
16 construction, security, operation and maintenance, or other
17 agreement or instrument, with the authority or with a participating
18 party, upon the terms and subject to the conditions that may be
19 necessary or convenient to accomplish the purposes of this
20 subdivision. The authority shall only enter into a prepayment
21 contract with a participating party for energy derived from an
22 alternative source to the extent the prepayment is for energy
23 intended to primarily offset part or all of the authority's or a
24 participating party's own electrical requirements.

25 (8) To purchase, with proceeds of its bonds or its revenue, bonds
26 issued by a public agency described in clause (ii) of subparagraph
27 (B) of paragraph (6) of subdivision (a) of Section 26003 at a public
28 or negotiated sale. Bonds purchased pursuant to this subdivision
29 may be held by the authority or sold to public or private purchasers
30 at public or negotiated sales, in whole or in part, separately or
31 together with other bonds issued by the authority.

32 (9) To do all things generally necessary or convenient to carry
33 out the purposes of this division.

34 (b) This section shall become operative on July 1, 2016.

35 SEC. 9. Section 26011.5 of the Public Resources Code is
36 repealed.

37 26011.5. The authority, in consultation with the State Energy
38 Resources Conservation and Development Commission, shall
39 establish criteria for the selection of projects to receive financing
40 assistance from the authority. In the selection of projects, the

1 authority shall, in accordance with the legislative intent, provide
2 financial assistance under this division in a manner consistent with
3 sound financial practice. In developing project selection criteria,
4 the authority shall consider, but not be limited to, all of the
5 following:

6 (a) ~~The technological feasibility of the projects.~~

7 (b) ~~The economic soundness of the projects and a realistic~~
8 ~~expectation that all financial obligations can and will be met by~~
9 ~~the participating parties.~~

10 (c) ~~The contribution that the projects can make to a reduction~~
11 ~~or more efficient use of fossil fuels.~~

12 (d) ~~The contribution that the project can make toward~~
13 ~~diversifying California's energy resources by fostering renewable~~
14 ~~energy systems that can substitute, or preferably eliminate, the~~
15 ~~demand for conventional energy fuels.~~

16 (e) ~~Any other such factors that the authority finds significant in~~
17 ~~achieving the purposes and objectives of this division.~~

18 *SEC. 10. Section 26011.6 of the Public Resources Code is*
19 *repealed.*

20 ~~26011.6. (a) The authority shall establish a renewable energy~~
21 ~~program to provide financial assistance to public power entities;~~
22 ~~independent generators, utilities, or businesses manufacturing~~
23 ~~components or systems, or both, to generate new and renewable~~
24 ~~energy sources, develop clean and efficient distributed generation,~~
25 ~~and demonstrate the economic feasibility of new technologies,~~
26 ~~such as solar, photovoltaic, wind, and ultralow-emission equipment.~~
27 ~~The authority shall give preference to utility-scale projects that~~
28 ~~can be rapidly deployed to provide a significant contribution as a~~
29 ~~renewable energy supply. The program established pursuant to~~
30 ~~this subdivision shall include financial assistance provided pursuant~~
31 ~~to subdivision (g) of Section 26011.~~

32 (b) ~~The authority shall make every effort to expedite the~~
33 ~~operation of renewable energy systems, and shall adopt regulations~~
34 ~~for purposes of this section and Section 26011.5 as emergency~~
35 ~~regulations in accordance with Chapter 3.5 (commencing with~~
36 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
37 ~~Code. For purposes of that Chapter 3.5, including Section 11349.6~~
38 ~~of the Government Code, the adoption of the regulations shall be~~
39 ~~considered by the Office of Administrative Law to be necessary~~
40 ~~for the immediate preservation of the public peace, health and~~

1 safety, and general welfare. Notwithstanding the 120-day limitation
2 specified in subdivision (e) of Section 11346.1 of the Government
3 Code, the regulations shall be repealed 180 days after their effective
4 date, unless the authority complies with Sections 11346.2 to
5 11347.3, inclusive, as provided in subdivision (e) of Section
6 11346.1 of the Government Code.

7 (e) The authority shall consult with the State Energy Resources
8 Conservation and Development Commission regarding the
9 financing of projects to avoid duplication of other renewable energy
10 projects.

11 (d) The authority shall ensure that any financed project shall
12 offer its power within California on a long-term contract basis.

13 (e) The authority shall ensure that a financed project is limited
14 to resources that the authority determines support the state's goals
15 for the reduction of emissions of greenhouse gases pursuant to the
16 California Global Warming Solutions Act of 2006 (Division 25.5
17 (commencing with Section 38500) of the Health and Safety Code).

18 ~~SEC. 5.~~

19 *SEC. 11.* Section 26011.8 of the Public Resources Code is
20 amended to read:

21 26011.8. (a) The purpose of this section is to promote the
22 creation of California-based manufacturing, California-based jobs,
23 advanced manufacturing, the reduction of greenhouse gases, or
24 reductions in air and water pollution or energy consumption. In
25 furtherance of this purpose, the authority may approve a project
26 for financial assistance in the form of the sales and use tax
27 exclusion established in Section 6010.8 of the Revenue and
28 Taxation Code.

29 (b) For purposes of this section, the following terms have the
30 following meanings:

31 (1) "Alternative source," in addition to as provided pursuant to
32 subdivision (c) of Section 26003, includes advanced electric
33 distributive generation technology as defined in Section 379.8 of
34 the Public Utilities Code or energy storage technologies and their
35 component materials.

36 (2) "Project" means a project as defined in subparagraph (B) of
37 paragraph (8) of subdivision (a) of Section 26003.

38 (c) The authority shall publish notice of the availability of
39 project applications and deadlines for submission of project
40 applications to the authority.

1 (d) The authority shall evaluate project applications based upon
2 all of the following criteria:

3 (1) The extent to which the project develops manufacturing
4 facilities, or purchases equipment for manufacturing facilities,
5 located in California.

6 (2) The extent to which the anticipated benefit to the state from
7 the project equals or exceeds the projected benefit to the
8 participating party from the sales and use tax exclusion.

9 (3) The extent to which the project will create new, permanent
10 jobs in California.

11 (4) To the extent feasible, the extent to which the project, or the
12 product produced by the project, results in a reduction of
13 greenhouse gases, a reduction in air or water pollution, an increase
14 in energy efficiency, or a reduction in energy consumption, beyond
15 what is required by any federal or state law or regulation.

16 (5) The extent of unemployment in the area in which the project
17 is proposed to be located.

18 (6) Any other factors the authority deems appropriate in
19 accordance with this section.

20 (e) At a duly noticed public hearing, the authority shall approve,
21 by resolution, project applications for financial assistance.

22 (f) Notwithstanding subdivision ~~(j)~~ (k), and without regard to
23 the actual date of any transaction between a participating party
24 and the authority, any project approved by the authority by
25 resolution for the sales and use tax exclusion pursuant to Section
26 6010.8 of the Revenue and Taxation Code prior to March 24, 2010,
27 shall not be subject to this section.

28 (g) The Legislative Analyst's Office shall report to the Joint
29 Legislative Budget Committee on the effectiveness of this program,
30 on or before January 1, 2019, by evaluating factors, including, but
31 not limited to, the following:

32 (1) The number of jobs created by the program in California.

33 (2) The number of businesses that have remained in California
34 or relocated to California as a result of this program.

35 (3) The amount of state and local revenue and economic activity
36 generated by the program.

37 (4) The types of advanced manufacturing, as defined in
38 paragraph (1) of subdivision (a) of Section 26003, utilized.

39 (5) The amount of reduction in greenhouse gases, air pollution,
40 water pollution, or energy consumption.

1 (h) The exclusions granted pursuant to Section 6010.8 of the
2 Revenue and Taxation Code for projects approved by the authority
3 pursuant to this section shall not exceed one hundred million dollars
4 (\$100,000,000) for each calendar year.

5 (i) The authority shall make every effort to expedite the
6 operation of this section, and shall adopt regulations for purposes
7 of implementing the section as emergency regulations in
8 accordance with Chapter 3.5 (commencing with Section 11340)
9 of Part 1 of Division 3 of Title 2 of the Government Code. For
10 purposes of that Chapter 3.5, including Section 11349.6 of the
11 Government Code, the adoption of the regulations shall be
12 considered by the Office of Administrative Law to be necessary
13 for the immediate preservation of the public peace, health and
14 safety, and general welfare.

15 (j) (1) The authority shall study the efficacy and cost benefit
16 of the sales and use tax exemption as it relates to advanced
17 manufacturing projects. The study shall include the number of jobs
18 created, the costs of each job, and the annual salary of each job.
19 The study shall also consider a dynamic analysis of the economic
20 output to the state that would occur without the sales and use tax
21 exemption. The authority shall work with the Legislative Analyst's
22 Office to determine the most efficient and cost-effective way for
23 the state to create jobs in advanced manufacturing. Before January
24 1, 2017, the authority shall submit to the Legislature, consistent
25 with Section 9795 of the Government Code, the result of the study.

26 (2) Before January 1, 2014, and within six months of any
27 significant change to the net benefits test, the authority shall work
28 with the University of California or the California State University
29 to perform a peer review of the net benefits test currently used to
30 evaluate applicants applying pursuant to this section.

31 (3) Before January 1, 2015, the authority shall, consistent with
32 Section 9795 of the Government Code, submit to the Legislature
33 an interim report on the efficacy of the program conducted pursuant
34 to this section. The study shall include recommendations on
35 program changes that would increase the program's efficacy in
36 creating permanent and temporary jobs, and whether eligibility
37 for the program should be extended or narrowed to other
38 manufacturing types. The authority may work with the Legislative
39 Analyst's Office in preparing the report and its recommendations.

(k) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed. The sale or purchase of tangible personal property of a project approved prior to June 30, 2016, shall continue to be excluded from sales and use taxes pursuant to Section 6010.8 of the Revenue and Taxation Code for the period of time set forth in the authority's resolution approving the project pursuant to this section.

(2) Notwithstanding paragraph (1), the authority's obligation to submit to the Legislature a report pursuant to paragraph (3) of subdivision (j) shall remain operative until the submission of the report.

~~SEC. 6.~~

SEC. 12. Section 26011.8 is added to the Public Resources Code, to read:

26011.8. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the authority may approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

(b) (1) For purposes of this section, "project" means a project as defined in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003.

(2) For purposes of this section, "alternative sources" also includes advanced electric distributive generation technology as defined in Section 379.8 of the Public Utilities Code or energy storage technologies and their component materials.

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon all of the following criteria:

(1) The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.

1 (2) The extent to which the anticipated benefit to the state from
2 the project equals or exceeds the projected benefit to the
3 participating party from the sales and use tax exclusion.

4 (3) The extent to which the project will create new, permanent
5 jobs in California.

6 (4) To the extent feasible, the extent to which the project, or the
7 product produced by the project, results in a reduction of
8 greenhouse gases, a reduction in air or water pollution, an increase
9 in energy efficiency, or a reduction in energy consumption, beyond
10 what is required by any federal or state law or regulation.

11 (5) The extent of unemployment in the area in which the project
12 is proposed to be located.

13 (6) Any other factors the authority deems appropriate in
14 accordance with this section.

15 (e) At a duly noticed public hearing, the authority shall approve,
16 by resolution, project applications for financial assistance.

17 (f) Notwithstanding subdivision ~~(j)~~ (k), and without regard to
18 the actual date of any transaction between a participating party
19 and the authority, any project as defined in paragraph (7) of
20 subdivision (a) of Section 26003 approved by the authority by
21 resolution for the sales and use tax exclusion pursuant to Section
22 6010.8 of the Revenue and Taxation Code prior to March 24, 2010,
23 shall not be subject to this section.

24 (g) The Legislative Analyst's Office shall report to the Joint
25 Legislative Budget Committee on the effectiveness of this program,
26 on or before January 1, 2019, by evaluating factors, including, but
27 not limited to, the following:

28 (1) The number of jobs created by the program in California.

29 (2) The number of businesses that have remained in California
30 or relocated to California as a result of this program.

31 (3) The amount of state and local revenue and economic activity
32 generated by the program.

33 (4) The amount of reduction in greenhouse gases, air pollution,
34 water pollution, or energy consumption.

35 (h) The exclusions granted pursuant to Section 6010.8 of the
36 Revenue and Taxation Code for projects approved by the authority
37 pursuant to this section shall not exceed one hundred million dollars
38 (\$100,000,000) for each calendar year.

39 (i) The authority shall make every effort to expedite the
40 operation of this section, and shall adopt regulations for purposes

1 of implementing the section as emergency regulations in
2 accordance with Chapter 3.5 (commencing with Section 11340)
3 of Part 1 of Division 3 of Title 2 of the Government Code. For
4 purposes of that Chapter 3.5, including Section 11349.6 of the
5 Government Code, the adoption of the regulations shall be
6 considered by the Office of Administrative Law to be necessary
7 for the immediate preservation of the public peace, health and
8 safety, and general welfare.

9 (j) If any significant changes are made to the net benefits test,
10 the authority shall work with the University of California or the
11 California State University to perform a peer review of the net
12 benefits test currently used to evaluate applicants applying pursuant
13 to this section.

14 (k) This section shall become operative on July 1, 2016, and
15 shall remain in effect only until January 1, 2021, and as of that
16 date is repealed. The sale or purchase of tangible personal property
17 of a project approved prior to January 1, 2021, shall continue to
18 be excluded from sales and use taxes pursuant to Section 6010.8
19 of the Revenue and Taxation Code for the period of time set forth
20 in the authority's resolution approving the project pursuant to this
21 section.

22 *SEC. 13. Section 26012 of the Public Resources Code is*
23 *repealed.*

24 ~~26012. All expenses incurred in carrying out the provisions of~~
25 ~~this division shall be payable solely from funds provided under~~
26 ~~the authority of this division and no liability or obligation shall be~~
27 ~~imposed upon the State of California and, except as provided in~~
28 ~~Section 26027, none shall be incurred by the authority beyond the~~
29 ~~extent to which moneys shall have been provided under the~~
30 ~~provisions of this division. Under no circumstances shall the~~
31 ~~authority create any debt, liability, or obligation on the part of the~~
32 ~~State of California payable from any source whatsoever other than~~
33 ~~the moneys provided under the provisions of this division.~~

34 *SEC. 14. Section 26013 of the Public Resources Code is*
35 *repealed.*

36 ~~26013. (a) All projects shall be constructed or completed~~
37 ~~subject to the rules and regulations of the authority.~~

38 ~~(b) In addition to the requirements of subdivision (a), all projects~~
39 ~~involving construction or completion of hydroelectric facilities~~
40 ~~shall comply with all state laws pertaining to the control,~~

1 appropriation, use, and distribution of water, including, but not
2 limited to, the obtaining of applicable licenses and permits, as a
3 condition of receiving any financing under this division. For these
4 purposes, no financial assistance shall be provided by the authority
5 for construction or completion of hydroelectric facilities unless
6 the participating party provides proof of either of the following:

7 (1) Certification from the State Water Resources Control Board
8 that a water right permit has been issued for the operation of the
9 hydroelectric facility. No certification shall be issued unless, in
10 applying for the certification, the applicant agrees in writing to
11 comply with all terms and conditions of the permit.

12 (2) Certification from the State Water Resources Control Board
13 that, in the opinion of the board, the private energy producer
14 possesses riparian rights or other water rights which authorize the
15 operation of the hydroelectric facility.

16 (e) The authority may acquire, by deed, purchase, lease, contract,
17 gift, devise, or otherwise, any real or personal property, structures,
18 rights, rights-of-way, franchises, easements, and other interests in
19 lands located within this state necessary or convenient for the
20 construction or operation of a project, upon terms and conditions
21 it deems advisable, and to lease, sell, or dispose of any property
22 or interest in any manner necessary or desirable to carry out this
23 division. The authority may not exercise the power of eminent
24 domain under this division or any other provision of law.

25 *SEC. 15. Section 26014 of the Public Resources Code is*
26 *amended to read:*

27 26014. When the principal of and interest on bonds of the
28 authority issued to finance *or refund* the cost of a particular project
29 for a participating party, ~~including any refunding bonds issued to~~
30 ~~refund and refinance such bonds~~, shall have been fully paid and
31 retired or when adequate provision shall have been made for the
32 payment and retirement of the same, and all other conditions of
33 the resolution, indenture, or agreement authorizing and securing
34 the same shall have been satisfied and the lien of such resolution,
35 indenture, or agreement shall have been released in accordance
36 with the provisions thereof, the authority is authorized, upon such
37 terms and conditions as may be prescribed by the authority, to
38 execute such deeds and conveyances as are necessary or required
39 to convey title to such project to such participating party.

1 *SEC. 16. Section 26015 of the Public Resources Code is*
2 *amended to read:*

3 26015. (a) The authority, or the executive-~~secretary~~ *director*
4 of the authority, if authorized to do so by resolution of the
5 authority, shall take official action towards the issuance of bonds
6 with respect to any participating party at the next meeting of the
7 authority occurring more than 30 days following receipt of such
8 application or if by the executive-~~secretary~~ *director* within 45 days
9 of such receipt. The executive-~~secretary~~ *director* may be authorized
10 to take such action in a resolution of general authority. Official
11 action towards the issuance of bonds may reserve the right of the
12 authority to further review an application for financing and to
13 consider the terms thereof prior to the issuance of bonds therefor.

14 (b) The authority shall take final action to approve or disapprove
15 of the issuance of bonds or notes to lend financial assistance to
16 participating parties within 60 days of the receipt by the authority
17 of a request from such participating party for such action. Any
18 such request by a participating party for such final action shall be
19 accompanied by evidence of fulfillment of any and all conditions
20 to the issuance of such bonds or notes imposed at the time the first
21 action towards the issuance thereof was taken by the authority and
22 by copies of forms of all principal legal documents to be approved
23 by the authority.

24 (c) The authority may give final approval for the issuance of
25 such bonds or notes upon such terms as it reasonably deems
26 necessary or desirable.

27 (d) Any action under this section shall be at the sole discretion
28 of the authority.

29 *SEC. 17. Section 26016 of the Public Resources Code is*
30 *repealed.*

31 ~~26016. The authority shall provide maximum opportunity for~~
32 ~~use of its financing by individuals and small businesses or~~
33 ~~corporations by providing information, assistance, and coordination~~
34 ~~to facilitate financing for small projects. Small projects under one~~
35 ~~million dollars (\$1,000,000) cost or one megawatt size or both~~
36 ~~such cost and size may be grouped together and qualify as one~~
37 ~~bond sale. In the event that a small business entity applying for~~
38 ~~funding under this section is not approved by the authority, the~~
39 ~~authority shall assist the small business entity to locate a favorable~~
40 ~~funding source through a corporation qualified under the Business~~

1 and Industrial Development Corporations Law (commencing with
2 Section 31000 of the Financial Code), or through any federal, state,
3 or private funding source.

4 *SEC. 18. Section 26016.5 of the Public Resources Code is*
5 *repealed.*

6 ~~26016.5.—(a) The Legislature finds and declares that small~~
7 ~~businesses have had difficulty establishing adequate security for~~
8 ~~bonds issued by the authority in their behalf, and that establishing~~
9 ~~common reserve funds will help to provide reasonable security for~~
10 ~~such bonds and will help to make the authority's services available~~
11 ~~to various small businesses which are presently unable to use them.~~

12 ~~(b) For the purpose of establishing and maintaining such~~
13 ~~common reserve funds as it deems necessary or desirable to secure~~
14 ~~its bonds or any issuance thereof, the authority, pursuant to its~~
15 ~~contracts with participating parties, may levy fees or other charges~~
16 ~~on, or require deposits from, participating parties receiving~~
17 ~~financing for projects under this division. Prior to levying any such~~
18 ~~fees or charges or requiring such deposits, the authority shall adopt~~
19 ~~regulations for the operation of the common reserve funds and~~
20 ~~governing the amounts and any payment schedule for such fees,~~
21 ~~charges, or deposits.~~

22 ~~(c) Subject to any prior contractual obligations to any of its~~
23 ~~bondholders, the authority may establish one or more common~~
24 ~~reserve funds for any or all of its bonds. The liability of any such~~
25 ~~common reserve fund, with respect to any single issue of bonds~~
26 ~~of the authority, may not exceed 25 percent of the sum of the bonds~~
27 ~~of such issue.~~

28 ~~(d) Each common reserve fund established pursuant to this~~
29 ~~section shall be deposited in a special account which shall be~~
30 ~~established by the Controller. Notwithstanding any other provision~~
31 ~~of law, all interest or other increment earned by investment or~~
32 ~~deposit of moneys in such an account pursuant to any provision~~
33 ~~of Part 2 (commencing with Section 16300) of Division 4 of Title~~
34 ~~2 of the Government Code or pursuant to any other provision of~~
35 ~~law shall be credited to, and deposited in, the account.~~

36 *SEC. 19. Section 26017 of the Public Resources Code is*
37 *amended to read:*

38 ~~26017. The authority, no later than March 31 of each year,~~
39 ~~shall submit to the Legislature a report of its activities for the~~
40 ~~preceding calendar year ended December 31. Such report shall~~

1 include (1) a listing of the applications received, (2) a listing of
2 the applications accepted for financing, (3) a specification of bonds
3 sold, interest rates thereon, and whether bond sales were pursuant
4 to public bid or were negotiated, (4) a specification of the amount
5 of bonds authorized but currently unsold, (5) a projection of the
6 authority's needs and requirements for the coming year, and (6) a
7 report of revenues and expenditures for the preceding fiscal year.

8 *SEC. 20. Section 26020 of the Public Resources Code is*
9 *repealed.*

10 ~~26020. (a) The authority may incur indebtedness and issue~~
11 ~~and renew negotiable bonds, notes, debentures, or other securities~~
12 ~~of any kind or class. All indebtedness, however evidenced, shall~~
13 ~~be payable solely from revenues of the authority and the proceeds~~
14 ~~of its negotiable bonds, notes, debentures, or other securities, and~~
15 ~~shall not exceed the sum of one billion dollars (\$1,000,000,000)~~
16 ~~of total debt outstanding.~~

17 ~~(b) As used in this section, "total debt outstanding" does not~~
18 ~~include either of the following:~~

19 ~~(1) A bond for which provisions have been made for prepayment~~
20 ~~through irrevocable escrow or other means, so that the bond is not~~
21 ~~considered outstanding under its authorizing document.~~

22 ~~(2) Indebtedness that is incurred to refund existing debts, except~~
23 ~~to the extent that the indebtedness exceeds the amount of those~~
24 ~~debts.~~

25 *SEC. 21. Section 26021 of the Public Resources Code is*
26 *repealed.*

27 ~~26021. The Legislature may, by statute, authorize the authority~~
28 ~~to issue bonds, as defined in Section 26022, in excess of the amount~~
29 ~~provided in Section 26020.~~

30 *SEC. 22. Section 26022 of the Public Resources Code is*
31 *amended to read:*

32 26022. (a) The authority is authorized from time to time to
33 issue its negotiable bonds, notes, debentures, or other securities
34 (hereinafter collectively called "bonds") for any of its purposes.
35 The bonds may be authorized, without limiting the generality of
36 the foregoing, to finance a single project for a single participating
37 party, a series of projects for a single participating party, a single
38 project for several participating parties, or several projects for
39 several participating parties, or the purchase and sale of alternative
40 source energy or projects pursuant to subdivision (g) of Section

1 26011. ~~In anticipation of the sale of bonds as authorized by Section~~
2 ~~26020, or as may be authorized pursuant to Section 26021, the~~ *The*
3 authority may issue negotiable bond anticipation notes and may
4 renew the notes from time to time. The bond anticipation notes
5 may be paid from the proceeds of sale of the bonds of the authority
6 in anticipation of which they were issued. Notes and agreements
7 relating to the notes and bond anticipation notes, collectively called
8 notes, and the resolution or resolutions authorizing the notes may
9 contain any provisions, conditions or limitations that a bond,
10 agreement relating to the bond, and bond resolution of the authority
11 may contain. However, a note or renewal of the note shall mature
12 at a time not exceeding ~~two~~ *three* years from the date of issue of
13 the original note.

14 (b) Except as may otherwise be expressly provided by the
15 authority, every issue of its bonds, notes, or other obligations shall
16 be general obligations of the authority payable from any revenues
17 or moneys of the authority available for these purposes and not
18 otherwise pledged, subject only to any agreements with the holders
19 of particular bonds, notes, or other obligations pledging any
20 particular revenues or moneys and subject to any agreements with
21 any participating party. Notwithstanding that the bonds, notes, or
22 other obligations may be payable from a special fund, they are for
23 all purposes negotiable instruments, subject only to the provisions
24 of the bonds, notes, or other obligations for registration.

25 (c) ~~Subject to the limitations in Sections 26020 and 26021, the~~
26 *The* bonds may be issued as serial bonds or as term bonds, or the
27 authority, in its discretion, may issue bonds of both types. The
28 bonds shall be authorized by resolution of the authority and shall
29 bear the date or dates, mature at the time or times, not exceeding
30 50 years from their respective dates, bear interest at the *fixed* rate
31 or rates, *or at the variable rates, including multiple methods of*
32 *setting rates from time to time while the bonds are outstanding,*
33 be payable at the time or times, be in the denominations, ~~be in the~~
34 ~~form, either coupon or registered, carry the registration privileges,~~
35 be executed in a manner, be payable in lawful money of the United
36 States of America at a place or places, and be subject to terms of
37 redemption *or tender*, as the resolution or resolutions may provide.
38 The bonds or notes shall be sold by the Treasurer ~~within 60 days~~
39 ~~of receipt of a certified copy of the authority's resolution~~
40 ~~authorizing the sale of the bonds. However, the authority, at its~~

1 ~~discretion, may adopt a resolution extending the 60-day period as~~
2 ~~agent for sale.~~ The sales may be a public or private sale, and for
3 the price or prices and on the terms and conditions, as the authority
4 shall determine after giving due consideration to the
5 recommendations of any participating party to be assisted from
6 the proceeds of the bonds or notes. Pending preparation of the
7 definitive bonds, the Treasurer may issue interim receipts,
8 certificates, or temporary bonds that shall be exchanged for the
9 definitive bonds. The Treasurer may sell bonds, notes, or other
10 evidence of indebtedness at a price below their par value. However,
11 the discount on a security sold pursuant to this section shall not
12 exceed 6 percent of the par value.

13 (d) A resolution or resolutions authorizing bonds or an issue of
14 bonds may contain provisions that shall be a part of the contract
15 with the holders of the bonds *or any credit provider* to be
16 authorized, as to all of the following:

17 (1) Pledging the full faith and credit of the authority or pledging
18 all or part of the revenues of a project or a revenue-producing
19 contract or contracts made by the authority with an individual,
20 partnership, corporation, or association or other body, public or
21 private, or other moneys of the authority, to secure the payment
22 of the bonds or of any particular issue of bonds, subject to the
23 agreements with bondholders as may then exist.

24 (2) The rentals, fees, purchase payments, loan repayments, and
25 other charges to be charged, and the amounts to be raised in each
26 year by the charges, and the use and disposition of the revenues.

27 (3) The setting aside of reserves or sinking funds, and the
28 regulation and disposition of the reserves or sinking funds.

29 (4) Limitations on the right of the authority or its agent to restrict
30 and regulate the use of the project or projects to be financed out
31 of the proceeds of the bonds or any particular issue of bonds.

32 (5) Limitations on the purpose to which the proceeds of sale of
33 an issue of bonds then or thereafter to be issued may be applied
34 and pledging those proceeds to secure the payment of the bonds
35 or the issue of the bonds.

36 (6) Limitations on the issuance of additional bonds, the terms
37 upon which additional bonds may be issued and secured, and the
38 refunding of outstanding bonds.

39 (7) The procedure, if any, by which the terms of a contract with
40 bondholders may be amended or abrogated, the amount of bonds

1 the holders of which must consent to the amendment or abrogation,
2 and the manner in which that consent may be given.

3 (8) Limitations on expenditures for operating, administrative,
4 or other expenses of the authority.

5 (9) Defining the acts or omissions to act that constitute a default
6 in the duties of the authority to holders of its obligations and
7 providing the rights and remedies of the holders in the event of a
8 default.

9 (10) The mortgaging of a project and the site of the project for
10 the purpose of securing the bondholders.

11 (11) The mortgaging of land, improvements, or other assets
12 owned by a participating party for the purpose of securing the
13 bondholders.

14 ~~(12) Procedures for the selection of projects to be financed with~~
15 ~~the proceeds of the bonds authorized by the resolution, if the bonds~~
16 ~~are to be sold in advance of the designation of the projects and~~
17 ~~participating parties to receive the financing.~~

18 *(12) Provisions for the security of any provider of credit*
19 *enhancement supporting payment on the bonds, but only in a*
20 *manner subordinate to the right of bondholders.*

21 (e) Neither the members of the authority nor a person executing
22 the bonds or notes shall be liable personally on the bonds or notes
23 or be subject to personal liability or accountability by reason of
24 the issuance of the bond or note.

25 (f) The authority shall have power out of any funds available
26 for these purposes to purchase its bonds or notes *without the*
27 *cancellation thereof*. The authority may hold, pledge, cancel, or
28 resell those bonds, subject to and in accordance with agreements
29 with bondholders.

30 *SEC. 23. Section 26023 of the Public Resources Code is*
31 *amended to read:*

32 26023. In the discretion of the authority, any bonds issued
33 under the provisions of this division may be secured by a trust
34 agreement by and between the authority and a corporate trustee
35 or trustees, which may be the State Treasurer or any trust company
36 or bank having the powers of a trust company within or without
37 the state. Such trust agreement or the resolution providing for the
38 issuance of such bonds may pledge or assign the revenues to be
39 received or proceeds of any contract or contracts pledged and may
40 convey or mortgage the project or projects, or any portion thereof,

1 to be financed out of the proceeds of such bonds. Such trust
2 agreement or resolution providing for the issuance of such bonds
3 may contain such provisions for protecting and enforcing the rights
4 and remedies of the bondholders *or any credit provider* as may be
5 reasonable and proper and not in violation of law, including
6 particularly such provisions as have hereinabove been specifically
7 authorized to be included in any resolution or resolutions of the
8 authority authorizing bonds thereof. Any bank or trust company
9 doing business under the laws of this state which may act as
10 depository of the proceeds of bonds or of revenues or other moneys
11 may furnish such indemnifying bonds or pledge such securities as
12 may be required by the authority. Any such trust agreement may
13 set forth the rights and remedies of the bondholders and of the
14 trustee or trustees, and may restrict the individual right of action
15 by bondholders *or any credit provider*. In addition to the foregoing,
16 any such trust agreement or resolution may contain such other
17 provisions as the authority may deem reasonable and proper for
18 the security of the bondholders *or any credit provider*.
19 Notwithstanding any other provision of law, the State Treasurer
20 shall not be deemed to have a conflict of interest by reason of
21 acting as trustee pursuant to this division. All expenses incurred
22 in carrying out the provisions of such trust agreement or resolution
23 may be treated as a part of the cost of the operation of a project.

24 *SEC. 24. Section 26024 of the Public Resources Code is*
25 *amended to read:*

26 26024. Bonds issued under the provisions of this division shall
27 not be deemed to constitute a debt or liability of the state or of any
28 political subdivision thereof, other than the authority, or a pledge
29 of the faith and credit of the state or of any such political
30 subdivision, other than the authority, but shall be payable solely
31 from the funds herein provided therefor. All such bonds shall
32 contain on the face thereof a statement to the following effect:

33 “Neither the faith and credit nor the taxing power of the State
34 of California *or any local agency* is pledged to the payment of the
35 principal of or interest on this bond.”

36 The issuance of bonds under the provisions of this division shall
37 not directly or indirectly or contingently obligate the state or any
38 political subdivision thereof to levy or to pledge any form of
39 taxation whatever therefor or to make any appropriation for their
40 payment. Nothing contained in this section shall prevent nor be

1 construed to prevent the authority from pledging its full faith and
2 credit to the payment of bonds or issue of bonds authorized
3 pursuant to this division.

4 *SEC. 25. Section 26025 of the Public Resources Code is*
5 *amended to read:*

6 26025. (a) The authority is hereby authorized to provide for
7 the issuance of bonds of the authority for the purpose of refunding,
8 *directly or indirectly*, any bonds, notes, or other ~~securities~~ *evidence*
9 *of indebtedness* of the authority *or any public agency* then
10 outstanding, including the payment of any redemption premium
11 thereon and any interest accrued or to accrue to the earliest or
12 subsequent date of redemption, purchase, or maturity of such
13 bonds, and, if deemed advisable by the authority, for the additional
14 purpose of paying all or any part of the cost of constructing and
15 acquiring additions, improvements, extensions, or enlargements
16 of a project or any portion thereof.

17 (b) The proceeds of any such bonds issued for the purpose of
18 refunding outstanding bonds, notes, or other securities may, in the
19 discretion of the authority, be applied to the purchase or retirement
20 at maturity or redemption of such outstanding bonds either on their
21 earliest or any subsequent redemption date or upon the purchase
22 or retirement at the maturity thereof and may, pending such
23 application, be placed in escrow to be applied to such purchase or
24 retirement at maturity or redemption on such date as may be
25 determined by the authority.

26 (c) Pending such use, any such escrowed proceeds may be
27 invested and reinvested by the State Treasurer *or any trustee* in
28 ~~obligations of, or guaranteed by, the United States of America, or~~
29 ~~in certificates of deposit or time deposits secured by obligations~~
30 ~~of, or guaranteed by, the United States of America~~ *instruments as*
31 *may be specified in the resolution or indenture governing the bonds*
32 *to be refunded*, maturing at such time or times as shall be
33 appropriate to assure the prompt payment, as to principal, interest,
34 and redemption premium, if any, of the outstanding bonds to be
35 so refunded. The interest, income, and profits, if any, earned or
36 realized on any such investment may also be applied to the payment
37 of the outstanding bonds to be so refunded. After the terms of the
38 escrow have been fully satisfied and carried out, any balance of
39 such proceeds and interest, income, and profits, if any, earned or

1 realized on the investments thereof may be returned to the authority
2 for use by it in any lawful manner.

3 ~~(d) The portion of the proceeds of any such bonds issued for~~
4 ~~the additional purpose of paying all or any part of the cost of~~
5 ~~constructing and acquiring additions, improvements, extensions,~~
6 ~~or enlargements of a project may be invested and reinvested by~~
7 ~~the State Treasurer in obligations of, or guaranteed by, the United~~
8 ~~States of America, or in certificates of deposit or time deposits~~
9 ~~secured by obligations of, or guaranteed by, the United States of~~
10 ~~America, maturing not later than the time or times when such~~
11 ~~proceeds will be needed for the purpose of paying all or any part~~
12 ~~of such cost. The interest, income and profits, if any, earned or~~
13 ~~realized on such investment may be applied to the payment of all~~
14 ~~or any part of such cost or may be used by the authority in any~~
15 ~~lawful manner.~~

16 ~~(e)–~~

17 *(d) All such bonds shall be subject to the provisions of this*
18 *division in the same manner and to the same extent as other bonds*
19 *issued pursuant to this division. If the authority refunds bonds or*
20 *evidence of indebtedness not originally issued by the authority,*
21 *the authority shall make findings that the project being refinanced*
22 *qualifies as a project under this division.*

23 *SEC. 26. Section 26026 of the Public Resources Code is*
24 *repealed.*

25 ~~26026. Bonds issued by the authority are legal investments for~~
26 ~~all trust funds, the funds of all insurance companies, banks, both~~
27 ~~commercial and savings, trust companies, savings and loan~~
28 ~~associations, and investment companies, for executors,~~
29 ~~administrators, trustees, and other fiduciaries, for state school~~
30 ~~funds, and for any funds which may be invested in county,~~
31 ~~municipal, or school district bonds, and such bonds are securities~~
32 ~~which may properly and legally be deposited with, and received~~
33 ~~by, any state or municipal officer or agency or political subdivision~~
34 ~~of the state for any purpose for which the deposit of bonds or~~
35 ~~obligations of the state, is now, or may hereafter be, authorized by~~
36 ~~law, including deposits to secure public funds if, and only to the~~
37 ~~extent that, evidence of indebtedness or debt securities of the~~
38 ~~participating party receiving financing through the issuance of~~
39 ~~such bonds qualify or are eligible for such purposes and uses.~~

1 *SEC. 27. Section 26027 of the Public Resources Code is*
2 *repealed.*

3 ~~26027. No liability shall be incurred by the authority beyond~~
4 ~~the extent to which moneys have been provided under this division;~~
5 ~~except that for the purposes of meeting the necessary expenses of~~
6 ~~initial organization and operation until such date as the authority~~
7 ~~derives revenues or proceeds from bonds or notes as provided~~
8 ~~under this division, the authority may borrow money as needed~~
9 ~~for such expenses from the State Energy Resources Conservation~~
10 ~~and Development Special Account in the General Fund in the State~~
11 ~~Treasury. Such borrowed moneys shall be repaid with interest~~
12 ~~within a reasonable time after the authority receives revenues or~~
13 ~~proceeds from bonds or notes as provided under this division.~~

14 *SEC. 28. Section 26030 of the Public Resources Code is*
15 *amended to read:*

16 26030. The authority may contract with any participating party
17 for the construction *or acquisition* of a project by such participating
18 party. All such contracts for the construction *or acquisition* of a
19 project by a participating party shall provide that the participating
20 party shall be responsible for the architectural and engineering
21 design and for the construction and completion thereof, subject to
22 such standards for architectural and engineering design as may be
23 established, and subject to such supervision as the authority deems
24 necessary. The authority may agree to pay the cost of such project
25 constructed *or acquired* by any participating party and to advance
26 such costs from time to time in installments or otherwise as
27 required by the contract for the construction *or acquisition* thereof.
28 Title to all such projects ~~shall~~ *may* be vested in the authority subject
29 to the terms of any lease thereof to the participating party or the
30 rights of a participating party under any contract for the purchase
31 *or acquisition* of such project including the payment of the
32 purchase price under installment sales contracts.

33 *SEC. 29. Section 26033 of the Public Resources Code is*
34 *amended to read:*

35 26033. All moneys received pursuant to the provisions of this
36 division, whether as proceeds from the sale of bonds, notes, or
37 other evidences of indebtedness or as revenues, *or as fees received*
38 *by the authority*, shall be deemed to be trust funds to be held and
39 applied solely as provided in this division. Any bank or trust
40 company with which such moneys shall be deposited shall act as

1 trustee of such moneys and shall hold and apply the same for the
2 purposes hereof, subject to such regulations as the resolution
3 authorizing the bonds of any issue or the trust agreements securing
4 such bonds may provide.

5 *SEC. 30. Section 26034 of the Public Resources Code is*
6 *amended to read:*

7 26034. Any holder of bonds, notes, or other obligations issued
8 under the provisions of this division ~~or any of the coupons~~
9 ~~appertaining thereto~~, and the trustee or trustees under any trust
10 agreement, except to the extent the rights herein given may be
11 restricted by any resolution authorizing the issuance of, or any
12 such trust agreement securing, such bonds, notes, or other
13 obligations, may, either at law or in equity, by suit, action,
14 mandamus, or other proceedings, protect and enforce any and all
15 rights under the laws of the state or granted hereunder or under
16 such resolution or trust agreements, and may enforce and compel
17 the performance of all duties required by this division or by such
18 resolution or trust agreement to be performed by the authority or
19 by any officer, employee, or agent thereof, including the fixing,
20 charging, and collecting of the rates, rents, fees, and charges herein
21 authorized and required by the provisions of such resolution or
22 trust agreement to be fixed, established, and collected.

23 *SEC. 31. Section 26035 of the Public Resources Code is*
24 *amended to read:*

25 26035. The exercise of the powers granted by this division
26 shall be in all respects for the benefit of the people of this state,
27 for their health and welfare, and protection of the state's
28 environment. Any bonds, notes, or other obligations issued under
29 the provisions of this division, their transfer and the income
30 therefrom, shall at all times be free from taxation of every kind by
31 the state and by municipalities and other political subdivisions of
32 the state. ~~However, the preceding sentence shall not apply with~~
33 ~~respect to any bonds, notes, or other obligations, or the income~~
34 ~~therefrom, for any period during which such bonds, notes, or other~~
35 ~~obligations are held by (a) any participating party, (b) persons,~~
36 ~~organizations, trades, or businesses (whether or not incorporated,~~
37 ~~organized in this state, or affiliated with such participating party)~~
38 ~~owned or controlled, directly or indirectly, by such participating~~
39 ~~party, or (c) persons, organizations, trades or businesses (whether~~
40 ~~or not incorporated, organized in this state, or affiliated with such~~

1 ~~participating party) which own or control, directly or indirectly,~~
2 ~~such participating party.~~

3 SEC. 32. Chapter 4 (commencing with Section 26050) is added
4 to Division 16 of the Public Resources Code, to read:

5
6 CHAPTER 4. PROPERTY ASSESSED CLEAN ENERGY (PACE) AND
7 CLEAN ENERGY FINANCING PROGRAM

8
9 Article 1. General Provisions and Definitions

10
11 26050. (a) The Legislature finds and declares all of the
12 following:

13 (1) Property Assessed Clean Energy (PACE) financing has been
14 pioneered by municipalities and counties in California as a way
15 for home and small business owners to finance voluntary energy
16 and water efficiency and clean energy improvements.

17 (2) PACE financing was pioneered in the City of Berkeley, while
18 the City and County of San Francisco, City of San Diego, City of
19 Palm Desert, Sonoma County, and the California Statewide
20 Communities Development Authority (CSCDA) have already
21 initiated or are working to launch additional programs.

22 (3) Seventeen other states, including Colorado and New York,
23 have also enacted enabling PACE legislation.

24 (4) The public subsidy provided by the PACE financing is
25 justified by the benefits received in job creation, lower energy
26 demand, and spurring new clean industries that will grow the
27 economy.

28 (b) It is the intent of the Legislature to assist local jurisdictions
29 in financing the installation of distributed generation renewable
30 energy sources, electric vehicle charging infrastructure, or energy
31 or water efficiency improvements that are permanently fixed to
32 real property through the use of voluntary contractual assessments.

33 (c) It is not the intent of the Legislature to create any debt,
34 liability, or obligation on the part of the state in assisting local
35 jurisdictions pursuant to this division.

36 26050.5. The Legislature further finds and declares both of
37 the following:

38 (a) Actions by federally chartered home loan entities have
39 frustrated efforts to accelerate the implementation of the PACE
40 financing program, creating a need to establish effective alternative

1 *approaches that can be rapidly deployed to advance the purposes*
2 *of this division.*

3 *(b) Among the most promising alternatives that can be*
4 *implemented rapidly are those intended to increase access to*
5 *capital for projects that advance the purposes of this division.*

6 26051. *Unless the context otherwise requires, the definitions*
7 *in this article govern the construction of this chapter.*

8 26052. *“Applicant” means, for the purposes of Article 2*
9 *(commencing with Section 26060), a public agency as defined in*
10 *paragraph (3) of subdivision (c) of Section 5898.20 of the Streets*
11 *and Highways Code and, for the purposes of Article 3 (commencing*
12 *with Section 26070), a financial institution providing a loan*
13 *pursuant to that chapter to finance the installation of distributed*
14 *generation renewable energy sources, electric vehicle charging*
15 *infrastructure, or energy or water efficiency improvements.*

16 26053. *“Clean Energy Upgrade Program” means a statewide*
17 *energy and water efficiency and renewable energy generation*
18 *building retrofit financing program developed by the State Energy*
19 *Resources Conservation and Development Commission and the*
20 *authority pursuant to Section 26070.*

21 26054. *“Property Assessed Clean Energy bond” or “PACE*
22 *bond” means a bond that is secured by any of the following:*

23 *(a) A voluntary contractual assessment on property authorized*
24 *pursuant to paragraph (2) of subdivision (a) of Section 5898.20*
25 *of the Streets and Highways Code.*

26 *(b) A voluntary contractual assessment or a voluntary special*
27 *tax on property to finance the installation of distributed generation*
28 *renewable energy sources, electric vehicle charging infrastructure,*
29 *or energy or water efficiency improvements that is levied pursuant*
30 *to a chartered city’s constitutional authority under Section 5 of*
31 *Article XI of the California Constitution.*

32 *(c) A special tax on property authorized pursuant to subdivision*
33 *(b) of Section 53328.1 of the Government Code.*

34 26055. *“PACE program” means a program established by an*
35 *applicant that is financed by the PACE bond.*

36 26056. *This chapter does not create any liability or obligation*
37 *upon the State of California and none shall be incurred by the*
38 *authority beyond the extent to which moneys shall have been*
39 *provided under this division. The authority shall not create any*
40 *debt, liability, or obligation on the part of the State of California*

1 *payable from any source whatsoever other than the moneys*
2 *provided under this chapter.*

3
4 *Article 2. PACE Reserve Program*
5

6 *26060. The authority shall develop and administer a PACE*
7 *Reserve program to reduce overall costs to the property owners*
8 *of PACE bonds issued by an applicant by providing a reserve of*
9 *no more than 10 percent of the initial principal amount of the*
10 *PACE bond.*

11 *26061. To qualify for assistance pursuant to this chapter, the*
12 *PACE program shall require all of the following:*

13 *(a) The interest rate on the PACE bond does not exceed a*
14 *percentage as determined by the authority to be appropriate.*

15 *(b) Minimum legal loan structure and credit underwriting*
16 *criteria as determined by the authority are met.*

17 *(c) Proceeds of the PACE bonds are used to finance qualified*
18 *energy and water efficiency, electric vehicle charging*
19 *infrastructure, and clean energy improvements.*

20 *(d) The improvement financed is for a residential project of*
21 *three units or fewer, or a commercial project that costs less than*
22 *twenty-five thousand dollars (\$25,000) in total.*

23 *26062. An applicant shall submit to the authority an application*
24 *providing a detailed description of the PACE program, a detailed*
25 *description of the transactional activities associated with the PACE*
26 *bond issuance, including all transactional costs, and other*
27 *information deemed necessary by the authority.*

28 *26063. (a) In evaluating eligibility, the authority shall consider*
29 *whether the applicant's PACE program includes the following*
30 *conditions:*

31 *(1) Loan recipients are legal owners of underlying property.*

32 *(2) Loan recipients are current on mortgage and property tax*
33 *payments.*

34 *(3) Loan recipients are not in default or in bankruptcy*
35 *proceedings.*

36 *(4) Loans are for less than 10 percent of the value of the*
37 *property.*

38 *(5) The property is within the geographical boundaries of the*
39 *PACE program.*

1 (6) *The program offers financing for energy efficiency*
2 *improvements or electric vehicle charging infrastructure.*

3 (7) *Improvements financed by the program follow applicable*
4 *standards of energy efficiency retrofit work, including any*
5 *guidelines adopted by the State Resources Conservation and*
6 *Development Commission.*

7 (b) *In evaluating an application, the authority shall consider*
8 *all of the following factors:*

9 (1) *The use by the PACE program of best practices, adopted by*
10 *the authority, to qualify eligible properties for participation in*
11 *underwriting the PACE program.*

12 (2) *The cost efficiency of the applicant's PACE program,*
13 *including bond issuance.*

14 (3) *The projected number of jobs created by the PACE program.*

15 (4) *The applicant's PACE program requirements for quality*
16 *assurance and consumer protection as related to achieving*
17 *efficiency and clean energy production.*

18 (5) *The mechanisms by which savings produced by this program*
19 *are passed on to the property owners.*

20 (6) *Any other factors deemed appropriate by the authority.*

21 26064. *The authority shall review the applicant's PACE bond*
22 *issuance, including, but not limited to, indenture, trust agreement,*
23 *and fiscal agent agreement ("the bond documents") and, when*
24 *the authority is satisfied that the bond documents are consistent*
25 *with the requirements of the PACE Reserve program established*
26 *pursuant to this chapter, the authority shall advance to the*
27 *applicant or the applicant's bond trustee, at the closing of the*
28 *applicant's PACE bonds, the amount made available from the*
29 *Renewable Resource Trust Fund and approved by the authority*
30 *for use in the PACE bond's reserve fund under the bond documents.*
31 *Prior to the disbursement of moneys pursuant to this section into*
32 *a reserve fund, the authority shall enter into an agreement with*
33 *the applicant regarding the creation and operation of the reserve*
34 *fund, including the manner in which the authority will be repaid*
35 *for any moneys disbursed to the reserve fund.*

36
37 *Article 3. Clean Energy Upgrade Program*
38

39 26070. *The authority shall administer a Clean Energy Upgrade*
40 *Program to reduce overall costs to the property owners of a loan*

1 *provided by an applicant to finance the installation of distributed*
2 *generation renewable energy sources, electric vehicle charging*
3 *infrastructure, or energy or water efficiency improvements that*
4 *are permanently fixed to real property by providing a reserve or*
5 *other financial assistance at a level to be determined by the State*
6 *Energy Resources Conservation and Development Commission*
7 *and the authority. Improvements financed pursuant to this program*
8 *shall be for a residential project of three units or fewer or a*
9 *commercial project that costs less than twenty-five thousand dollars*
10 *(\$25,000) in total.*

11 *26071. (a) The authority shall adopt regulations governing*
12 *the implementation of this chapter, including quality assurance*
13 *pursuant to subdivision (b) of Section 26072, at a publicly noticed*
14 *meeting. Notwithstanding any other law, regulations adopted*
15 *pursuant to this section may be adopted as emergency regulations*
16 *pursuant to Chapter 3.5 (commencing with Section 11340) of Part*
17 *1 of Division 3 of Title 2 of the Government Code.*

18 *(b) For the purposes of Chapter 3.5 (commencing with Section*
19 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
20 *including Section 11349.6 of that code, the Office of Administrative*
21 *Law shall consider the adoption of the regulations pursuant to*
22 *subdivision (a) to be necessary for the immediate preservation of*
23 *the public peace, health and safety, and general welfare.*

24 *26072. (a) An applicant shall submit to the authority an*
25 *application providing a detailed description of the loan program*
26 *to finance the installation of distributed generation renewable*
27 *energy sources, electric vehicle charging infrastructure, or energy*
28 *or water efficiency improvements on real property, a detailed*
29 *description of the transactional activities associated with the loan*
30 *issuance, including all transactional costs, and other information*
31 *deemed necessary by the authority.*

32 *(b) The authority shall ensure that all improvements financed*
33 *by the program meet quality assurance standards developed by*
34 *the authority in consultation with the State Energy Resources*
35 *Conservation and Development Commission. The standards shall*
36 *include contractor certification and third-party inspection of an*
37 *appropriate portion of completed projects to ensure project*
38 *performance and consumer protection.*

1 26073. (a) *In evaluating eligibility, the authority shall consider*
2 *whether the applicant's loan program includes the following*
3 *conditions:*

4 (1) *Loan recipients are legal owners of underlying property.*

5 (2) *Loan recipients are current on mortgage and property tax*
6 *payments.*

7 (3) *Loan recipients are not in default or in bankruptcy*
8 *proceedings.*

9 (4) *Loans are for less than 10 percent of the value of the*
10 *property.*

11 (5) *The program offers financing for energy and water efficiency*
12 *improvements.*

13 (6) *Improvements financed by the program follow applicable*
14 *standards of energy efficiency retrofit work, including any*
15 *guidelines adopted by the State Energy Resources Conservation*
16 *and Development Commission.*

17 (b) *In evaluating an application, the authority shall consider*
18 *all of the following factors:*

19 (1) *The use by the loan program of best practices, adopted by*
20 *the authority, to qualify eligible properties for participation in*
21 *underwriting the loan program.*

22 (2) *The cost efficiency of the applicant's loan program.*

23 (3) *The projected number of jobs created by the loan program.*

24 (4) *The applicant's loan program requirements for quality*
25 *assurance and consumer protection, as related to achieving*
26 *efficiency and clean energy production, in accordance with the*
27 *standards developed pursuant to subdivision (b) of Section 26072.*

28 (5) *The mechanisms by which savings produced by this program*
29 *are passed on to the property owners.*

30 (6) *Any other factors deemed appropriate by the authority.*

31 (c) *The authority may approve a loan program that offers*
32 *financing for electric vehicle charging infrastructure if the electric*
33 *vehicle charging infrastructure is part of a project to install energy*
34 *efficiency improvements and distributed generation renewable*
35 *energy resources and is designed so that the project does not*
36 *increase peak energy demand.*

37 26074. (a) *The authority shall require certification from a*
38 *loan applicant that each loan offered pursuant to the applicant's*
39 *loan program is consistent with the requirements of the Clean*
40 *Energy Upgrade Program administered pursuant to this chapter.*

1 (b) *If the conditions of subdivision (a) are satisfied, the authority*
2 *shall allocate to the applicant, at the closing of the loan, the*
3 *amount made available from the Renewable Resource Trust Fund*
4 *in the form of financial assistance as approved by the State Energy*
5 *Resources Conservation and Development Commission and the*
6 *authority. Prior to providing financial assistance pursuant to this*
7 *section, the authority shall enter into an agreement with the*
8 *applicant regarding the financial assistance, including the process*
9 *for the possible return of moneys disbursed to or on behalf of the*
10 *applicant.*

11
12 Article 4. *Appropriation and Reporting*

13
14 26080. (a) *Until January 1, 2015, an amount of up to fifty*
15 *million dollars (\$50,000,000) from the Renewable Resource Trust*
16 *Fund, established pursuant to Section 25751, is hereby*
17 *appropriated to the authority for the purposes of this chapter. The*
18 *moneys appropriated shall remain in the Renewable Resource*
19 *Trust Fund until the funds are needed by the authority pursuant*
20 *to this chapter.*

21 (b) *Of the moneys appropriated in subdivision (a), up to five*
22 *hundred fifty thousand dollars (\$550,000) may be expended by the*
23 *authority for the initial administrative costs in implementing this*
24 *chapter.*

25 (c) *All repayments of moneys disbursed pursuant to this chapter*
26 *shall be deposited into the Renewable Resource Trust Fund.*

27 26081. (a) *On March 31, 2011, and annually thereafter, the*
28 *authority shall submit to the Legislature a report pursuant to*
29 *Section 9795 of the Government Code on all of the following:*

30 (1) *The status of the account.*

31 (2) *A summary of the PACE bonds that received assistance*
32 *pursuant to Article 2 (commencing with Section 26060) and a*
33 *summary of the loans that received assistance pursuant to Article*
34 *3 (commencing with Section 26070).*

35 (3) *A summary of the benefits provided by this division,*
36 *including reduced interest rates on the PACE bonds or on loans*
37 *receiving assistance pursuant to this division.*

38 (4) *The number of jobs created by the PACE programs or loans*
39 *that received assistance pursuant to this chapter.*

1 (5) *Information on energy and water savings resulting from the*
2 *PACE programs or loans that received assistance pursuant to this*
3 *chapter.*

4 (6) *Other information deemed appropriate by the authority.*

5 (b) *This section shall remain in effect only until January 1, 2015,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2015, deletes or extends that date.*

8 26082. (a) *Notwithstanding Section 26080, twenty-five million*
9 *dollars (\$25,000,000) of the unencumbered balance of the fifty*
10 *million dollars (\$50,000,000) that was appropriated to the*
11 *authority pursuant to Section 26080 and is in the Renewable*
12 *Resource Trust Fund is hereby appropriated to the Energy*
13 *Conservation Assistance Account established pursuant to Section*
14 *25416.*

15 (b) *Notwithstanding Section 25421, any unexpended funds*
16 *appropriated pursuant to subdivision (a) remaining in the Energy*
17 *Conservation Assistance Account on and after January 1, 2013,*
18 *except to the extent those funds are encumbered pursuant to Section*
19 *25417.5, shall revert to the Renewable Resource Trust Fund and*
20 *be available to the authority for the purposes of this chapter.*

21 SEC. 33. *Division 16.2 (commencing with Section 26100) of*
22 *the Public Resources Code is repealed.*

23 SEC. 34. *Section 6010.8 of the Revenue and Taxation Code is*
24 *amended to read:*

25 6010.8. (a) *“Sale” and “purchase” do not include any lease*
26 *or transfer of title of tangible personal property constituting any*
27 *project to the California Alternative Energy and Advanced*
28 *Transportation Financing Authority by any participating party, nor*
29 *any lease or transfer of title of tangible personal property*
30 *constituting any project by the authority to any participating party;*
31 *when the transfer or lease is made pursuant to Division 16*
32 *(commencing with Section 26000) of the Public Resources Code.*
33 *The terms “project” and “participating party” as* *As used in this*
34 *section have the same meanings as “project” has the meaning*
35 *specified in subparagraph (B) of paragraph (8) of subdivision (a)*
36 *of Section 26003 of the Public Resources Code and “participating*
37 *party” has the meaning specified in subparagraph (B) of*
38 *paragraph (7) of subdivision (a) of Section 26003 of the Public*
39 *Resources Code.*

1 **(b)** *This section shall become inoperative on July 1, 2016, and,*
2 *as of January 1, 2017, is repealed, unless a later enacted statute,*
3 *that becomes operative on or before January 1, 2017, deletes or*
4 *extends the dates on which it becomes inoperative and is repealed.*

5 **SEC. 35.** *Section 6010.8 is added to the Revenue and Taxation*
6 *Code, to read:*

7 **6010.8.** *(a) “Sale” and “purchase” do not include any lease*
8 *or transfer of title of tangible personal property constituting any*
9 *project to any participating party. As used in this section “project”*
10 *has the meaning specified in subparagraph (B) of paragraph (7)*
11 *of subdivision (a) of Section 26003 of the Public Resources Code*
12 *and “participating party” has the meaning specified in*
13 *subparagraph (B) of paragraph (6) of subdivision (a) of Section*
14 *26003 of the Public Resources Code.*

15 **(b)** *This section shall become operative on July 1, 2016.*